

EEOC of his or her intent to file a civil action. Such notice must be given to the EEOC within 180 days of the occurrence of the alleged discriminatory act. If a complainant elects to pursue his or her age complaint through the administrative procedures outlined in subpart B then he or she may not file a civil action in Federal District Court until all administrative remedies (including an appeal of the final Army decision to the EEOC) have been exhausted.

(c) All Army decisions must notify the complainant of the right to file a civil action and of the time limits for doing so. For civil action purposes, the Army decision is final only when a determination has been made on all the issues in the complaint, including whether or not to award attorney fees and/or costs. If attorney fees and/or costs are to be awarded, the decision will not be final until the procedure outlined in subpart E for determining the amount of the award has been followed.

(d) The labor counselor will inform the activity EEO officer and the EEOCRA (ATTN: SFCR, WASH DC 20310-1813) when litigation is initiated on any EEO complaint. The following will be provided:

- (1) EEOCRA docket number.
- (2) Federal Court docket number.
- (3) Federal Court where the suit has been filed.
- (4) Date of filing.
- (5) Copy of Federal Court complaint.
- (6) Date suit terminated.
- (7) Copy of court order terminating suit.

Subpart G—Participation by the Alleged Discriminating Official

§ 588.60 General guidance.

(a) The purpose of the discrimination complaint procedure is to determine whether discrimination has occurred so that appropriate remedial action can be taken. Investigations and hearings in discrimination complaint cases are essentially fact-finding processes. Their purpose is to develop and record evidence on which an informed and impartial decision can be based. It is not the purpose of the complaint procedure to try individual officials. Complaints

are lodged “against” the Army, not “against” individuals.

(b) Employees and applicants must be free to avail themselves of the discrimination complaint procedures without fear of reprisal. However, ensuring these rights of complainants is not done without regard for the rights of persons against whom allegations of discrimination have been made. Persons, named or otherwise, identified as ADOs have clearly defined rights and a significant role in the complaint process.

(c) A complainant cannot always be expected to know which person, if any, might have been responsible for a specific action or policy. Therefore, a complainant must not be required to identify ADO(s) in complaints of discrimination, but may do so if he or she believes particular persons have discriminated against him or her.

(d) The Army must ensure that persons named as ADOs are informed of all allegations made against them and are given a full and fair opportunity to respond to these allegations.

§ 588.61 The ADO at the informal stage.

(a) The informal counseling stage, the EEO counselor must solicit the views of an identified ADO unless the counselor obtains and provides information which clears the official to the satisfaction of the aggrieved person.

(b) Before the counselor interviews the ADO, the ADO must be told that he or she has been identified as a potential ADO. The ADO must be informed of the nature of any allegations made and must be told of the right to have a representative at the interview to advise him or her on how to respond to any questions the counselor may ask.

(c) The counselor must not reveal the identity of the aggrieved person when the aggrieved person has not authorized him or her to do so.

§ 588.62 The ADO during the USACARA investigation.

(a) The USACARA investigator must give an ADO the opportunity to respond to all allegations made against him or her and to review all documents that name or implicate the ADO and are to be included in the investigative